

DRAFT

**RESTORATION PLAN
and
ENVIRONMENTAL ASSESSMENT
for the
JUNE 10, 1999,
OLYMPIC PIPE LINE GASOLINE SPILL
into
WHATCOM CREEK,
BELLINGHAM, WASHINGTON**

Prepared by:

**National Oceanic and Atmospheric Administration
U.S. Fish and Wildlife Service
Nooksack Tribe
Lummi Nation
State of Washington
and
City of Bellingham**

March 7, 2002

FACT SHEET

DRAFT RESTORATION PLAN and ENVIRONMENTAL ASSESSMENT

for the

**June 10, 1999, Olympic Pipe Line Gasoline Spill
Whatcom Creek, Bellingham, Washington**

LEAD AGENCY FOR RP/EA: National Oceanic and Atmospheric Administration

COOPERATING AGENCIES: U.S. Fish and Wildlife Service
Washington Department of Ecology
Washington Department of Fish and Wildlife
Washington Department of Natural Resources
Lummi Nation
Nooksack Tribe
City of Bellingham

ABSTRACT: This draft Restoration Plan and Environmental Assessment (draft RP/EA) has been prepared by the local, state, federal and tribal Natural Resource Trustees to address restoration of natural resources and resource services injured in the Olympic Pipe Line Company Gasoline Spill of June 10, 1999, into Whatcom Creek, Bellingham, Washington.

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COMMENTS: **Comments are due no later than April 8, 2002.**
Comments should be sent to the Contact Person listed above.

COPIES: Copies of the draft RP/EA are available at the address listed above or available for download at
www.darcnw.noaa.gov/whatcom.htm

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1.0 INTRODUCTION

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1.0 Introduction: Purpose of and Need for Restoration

1.1 Summary

This draft Restoration Plan and Environmental Assessment (RP/EA) document has been prepared as a proposal for the restoration of natural resources and natural resource services injured by the June 10, 1999, Olympic Pipe Line Company (OPLC, “the Company”) gasoline spill into Whatcom Creek (“the Creek”), Bellingham, Washington, and the resulting explosion and fire (“the Incident”). The objective of this proposal is to compensate the public for injuries to natural resources and natural resource services resulting from the Incident by returning the injured natural resources and natural resource services to their baseline conditions and compensating for interim losses of those resources and services. This restoration effort is compensatory only, and therefore is not designed to be a punitive action toward the Company,¹ nor is it intended to address loss of human life, loss of private property, other personal losses, or individual claims.

It is the Trustees’ responsibility pursuant to the Oil Pollution Act of 1990 (OPA) (33 U.S.C. §§ 2701, *et seq.*) to determine the nature and extent of natural resource injuries, select appropriate restoration projects, and implement or oversee restoration.² The Trustees for this Incident include the National Oceanic and Atmospheric Administration (NOAA), the U.S. Fish and Wildlife Service (USFWS), the Washington Department of Ecology (WDOE), the Washington Department of Fish and Wildlife (WDFW), the Washington Department of Natural Resources (WDNR), the Lummi Nation, the Nooksack Tribe, and the City of Bellingham. This draft RP/EA documents the information and analyses that support the Trustees’ evaluation of:

- Injuries to natural resources and natural resource services caused by the Incident,
- Restoration alternatives and the Trustees’ preferred restoration proposal to compensate for the injuries and losses; and
- Rationale for the Trustees’ preferred alternatives.

This document also serves, in part, as the Federal agencies’ compliance with the National Environmental Policy Act (NEPA) (43 USC §§ 4321, *et seq.*).³ In developing these restoration alternatives, the Trustees met with local entities and the Company (the Responsible Party (RP)

¹ Civil and criminal penalties under other causes of action are being addressed separately by the appropriate state and federal agencies.

² The Trustees are also following the State of Washington procedures for damage assessment and restoration under the Model Toxics Control Act (MTCA) (Chapter 173-340 WAC) (<http://www.ecy.wa.gov/biblio/wac173340.html>).

³ The document also supports SEPA requirements (Chapter 43.21C RCW) (<http://www.ecy.wa.gov/programs/sea/sepa/e-review.html>).

for the Incident) and its contractors, and sought input from agency scientists and other restoration and oil spill experts.

The primary purpose of this draft RP/EA is to inform the public of, and to solicit public comment on, the Trustees' restoration proposal ("the Preferred Alternative") outlined in Section 5. The Trustees will consider written comments received during the public comment period prior to finalizing the draft RP/EA. As described in detail below, this Preferred Alternative includes:

- Acceptance of a 9.5-acre property above Woburn Street near the Creek to expand Whatcom Falls Park ("the Park") and compensate for losses to public and ecological services;
- Acceptance of a 4-acre property along the Creek to compensate for losses to public and ecological services and provide land for future habitat restoration projects;
- Construction of park improvements to the Woburn Street property, including restroom and public access features, to compensate the public for lost use of the Park;
- Construction of off-channel salmonid habitat at the Salmon Park project near Racine Street to compensate for impacts to fish habitats from the Incident;
- Construction of pools, wetlands, and salmonid rearing habitat near the mouth of Cemetery Creek to compensate for impacts to fish habitats from the Incident;
- Funding by the Company for long-term monitoring of the Creek and the various restoration projects; and
- Funding by the Company for maintenance of the restoration projects and parklands injured by the Incident.

Implementation of the proposed Preferred Alternative would be part of a settlement the Trustees are negotiating with the Company.

In addition to these long-term restoration activities, this draft RP/EA summarizes and references a number of restoration activities already implemented under the emergency response and emergency restoration phase of the Incident. These emergency response and restoration activities were implemented to reduce injuries to natural resources or restore injured resources pursuant to the Oil Pollution Act damage assessment regulations (5 CFR § 990.26). These emergency restoration actions were made public and were reviewed and approved by the response and Trustee agencies and the Tribes prior to implementation. A copy of the Emergency Restoration Plan, dated June 22, 1999, was made available for public review and is included in the Administrative Record (AR) (AR #1). Other emergency restoration actions not described in the initial plan were also taken whenever the need and the opportunity presented itself to reduce natural resource injuries or to improve public use and access to resources. The emergency response and restoration activities included:

- Stabilization of soils within burned areas of the Park;
- Removal of potentially dangerous trees and branches from burned areas;
- Removal of trash and debris from the banks and channel of the Creek;
- Stream sediment remediation to release trapped hydrocarbon contamination;
- Reconfiguration of the channel bed of the Creek to improve fish habitat;
- Introduction of large woody debris to the Creek to improve fish habitat;
- Backwatering of fish-passage barriers within the Creek;
- Installation of trails and overlooks in the Park to improve public access and understanding of environmental impacts of the event;
- Reconstruction of Hanna Creek following removal of contaminated soils and gravels;
- Invasive-plant control;
- Planting of trees within burned areas of the Park;
- Funding by the Company of construction of an improved bridge over the Creek at Valencia Street;
- Daylighting the confluence of Fever Creek and Whatcom Creek to enhance fish passage; and
- Construction of a recreational trail bridge over the mouth of Fever Creek and a trail underpass at Valencia Street.

1.2 Olympic Pipe Line Incident and Site Overview⁴

At 3:28 p.m. on June 10, 1999, a rupture occurred in a pipeline owned by the Company (Figure 1). The Company operates a pipeline system that runs from Ferndale, Washington, to Portland, Oregon. Delivery lines carry products from the mainline to bulk terminals at Seattle, Sea-Tac International Airport, Tacoma, Olympia and Vancouver, Washington, and Linnton and Portland, Oregon. The rupture occurred at a location where the pipeline crosses the Park within the City of Bellingham, Washington, and near the City's public water treatment facility (Figures 2, 3). The

⁴ Background materials on the Incident, including EPA Pollution Reports and Joint Information Center fact sheets, are in the Whatcom Creek Incident Preassessment Data Report (AR #2).

Environmental Protection Agency (EPA)⁵ and the Washington Department of Ecology⁶ report the spill volume as approximately 236,000 gallons⁷ based on the Company's calculations of product loss between the Ferndale Station and the Bayview Product Terminal (AR #3). Released product saturated the ground and geologic formations surrounding the pipeline and flowed both above ground and through subsurface pathways to nearby Hanna Creek where it proceeded downstream into the Creek, through the park. At approximately 5:00 p.m., the fuel ignited, resulting in a fire, which, at its peak, spanned from the source location down Hanna Creek to Whatcom Creek and down the Creek for a distance of approximately 1.6 miles (AR #2).

Immediate response and cleanup measures followed the Incident at the direction of a Unified Command that included the EPA, the State of Washington Department of Ecology, the City of Bellingham, Whatcom County, and the Company. An Emergency Operations Center was established in the Whatcom County Courthouse. The Unified Command also established a Joint Information Center. The Trustees' Whatcom Creek Incident Preassessment Data Report, dated April 2000, summarizes and describes the chronology of events associated with response and cleanup activities and includes copies of Environmental Protection Agency Pollution Reports, Joint Information Center Fact Sheets, and Remedial Action Plans (AR #2).

1.3 Natural Resource Trustees and Authorities

Both Federal and State of Washington laws establish liability for natural resource damages to compensate the public for the injury, destruction, and loss of such resources and/or their services resulting from oil spills.

This draft RP/EA has been prepared jointly by NOAA; USFWS; the State of Washington Departments of Ecology, Fish and Wildlife, and Natural Resources; the Lummi Nation; the Nooksack Tribe; and the City of Bellingham. These entities are collectively referred to as the "Trustees."

Each of these entities acts as a Natural Resource Trustee pursuant to the Oil Pollution Act of 1990 (33 U.S.C. §§ 2701, *et seq.*), the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR § 300.600), and the Oil Pollution Act Natural Resource Damage Assessment (NRDA) regulations (15 CFR Part 990), for natural resources injured by the Incident. Executive Order 12777 designates the federal Natural Resource Trustees for oil spills, while the Governor of the State of Washington designates the state Trustees for oil spills in Washington. The City of Bellingham was appointed by the Governor as a Trustee specifically for this Incident due to the proximity of and interest in the natural resource injuries in Bellingham (AR #92). As a designated Trustee, each entity is authorized to act on behalf of the public under state and/or federal law to assess and recover natural resource damages and to plan and

⁵ Anthony Barber, EPA On-Scene Coordinator, Pers. Com.

⁶ Linda Pilkey-Jarvis, WDOE, personal communication.

⁷ The spill volume was initially reported as 277,200 gallons (AR #4).

implement actions to restore natural resources and resource services injured or lost as the result of a discharge or threat of a discharge of oil. As set out in 15 CFR § 990.14 (a), the Trustees have designated NOAA as the Federal Lead Administrative Trustee and the City of Bellingham as the overall Lead Administrative Trustee (AR #6).

The assessment of injury and restoration of resources is also provided for in state law under the Washington Water Pollution Control Act, chapter 90.48 Revised Code of Washington (RCW), the Washington Oil and Hazardous Substance Spill Prevention and Response Act, chapter 90.56 RCW, the Washington Archaeological Sites and Resources Act, chapter 27.53 RCW, and the Washington State Environmental Policy Act, chapter 43.21C RCW. These authorities are in addition to any other liability that may arise under federal law.

1.4 Overview of Natural Resource Injuries

The Creek, the Park, and the adjacent lands are important ecological and recreational resources for the City of Bellingham and surrounding area (AR #7). The Creek and riparian lands provide habitat for numerous species of plants, fish, birds, mammals, amphibians, reptiles, and invertebrates. Human uses, including wildlife viewing, hiking, fishing, biking, and other outdoor activities, also rely on the natural resources of the Whatcom Creek watershed (AR #5, 7, 8). The Incident resulted in significant adverse impacts on the watersheds of Whatcom Creek and its tributaries, including Hanna Creek, Lincoln Creek, Cemetery Creek, and Fever Creek:

- The aquatic biota of the Creek was nearly, if not completely, eliminated within the affected areas (AR #10). Affected biota included several species of juvenile salmonids, including chinook salmon (*Oncorhynchus tshawytscha*), which are listed as threatened under the Endangered Species Act (ESA) (16 U.S.C. §§ 1531, *et seq.*, 50 CFR Part 223).
- The fire that began shortly after the pipeline rupture burned approximately 26 acres (AR #98). In addition to the direct injuries to the vegetation, the loss of vegetation resulted in increased erosion, expansion of invasive species, loss of shade and increased stream temperatures, lost recreation, and lost fish and wildlife habitat.
- The gasoline release and fire directly impacted at least 16 acres of the Park (AR #11). Losses of direct and passive use of recreational opportunities include reduction of hiking, fishing, swimming, and nature enjoyment. The majority of the Park was closed in the days and weeks after the Incident (Figures 4-9). As of early 2002, portions of the park near the confluence of Whatcom and Hanna creeks remain closed.⁸

1.5 Overview of the Oil Pollution Act of 1990 Requirements

The Oil Pollution Act allows designated Trustees to recover the cost of restoring, rehabilitating, replacing, or acquiring the equivalent of the injured natural resources (“primary restoration”), the

⁸ C. Fogelson, City of Bellingham, personal communication.

diminution in value of those injured natural resources pending restoration (“compensatory restoration”), and reasonable assessment costs. NOAA promulgated regulations for the conduct of damage assessments for oil spills in 15 CFR Part 990 (Oil Pollution Act regulations). In conjunction with this rule-making process, NOAA also developed a series of technical guidance documents on how to structure and conduct oil spill damage assessments. The following provides a summary of the steps taken by the Trustees to develop a restoration plan to address the natural resource injuries associated with this Incident.

In compliance with the Oil Pollution Act and its regulations, the Trustees determined that legal jurisdiction to pursue restoration under the act exists for this Incident. The pipeline rupture and spill constitute an “incident” pursuant to OPA Section 1001 (14). Because the discharge was not authorized by a permit issued under federal, state, or local law and did not originate from a public vessel or from an onshore facility subject to the Trans-Alaska Pipeline Authorization Act, the Incident is not an “excluded discharge” within the meaning of OPA Section 1002 (c). Finally, natural resources under the authority of the Trustees have been injured as a result of the Incident. These factors establish jurisdiction to proceed with a NRDA under Oil Pollution Act regulations (15 CFR Part 990). The Notice of Intent to Conduct Restoration Planning (AR #137) provides a more detailed narrative on these determinations.

Natural resources are defined as “land, fish, wildlife, biota, air, water, ground water, drinking water supplies and other such resources belonging to, managed by, held in trust by, appertaining to or otherwise controlled by the United States (including the resources of the exclusive economic zone), any State or local government or Indian tribe or any foreign government” (33 U.S.C. § 2701 (20)). Injury is defined as “an observable or measurable adverse change in a natural resource or impairment of a natural resource service” (15 CFR § 990.30). As described in the Oil Pollution Act regulations, a NRDA consists of three phases: preassessment, restoration planning, and restoration implementation.

Based on information collected during the preassessment phase, the Trustees make a preliminary determination as to whether natural resources and/or services have been injured and/or are likely to be injured by the release. Through coordination with response agencies (e.g., the Environmental Protection Agency), the Trustees next determine whether the oil spill response actions will eliminate the injury or the threat of injury to natural resources. If injuries are expected to continue and feasible restoration alternatives exist to address such injuries, the Trustees may proceed with the restoration planning phase. Restoration planning also may be necessary if injuries are not expected to continue or endure but are nevertheless determined to have resulted in interim losses of natural resources and/or services from the date of the incident until the date of recovery (15 CFR § 990.30).

The purpose of the restoration planning phase is to evaluate the potential injuries to natural resources and services and to use that information to determine the need for and scale of associated restoration actions. This phase provides the link between injury and restoration and

has two basic components: injury assessment and restoration selection. The goal of injury assessment is to determine the nature and extent of injuries to natural resources and services, thus providing a factual basis for evaluating the need for, type of, and scale of restoration actions. If the Trustees determine that the information gathered during preassessment is sufficient to provide a basis for restoration, they may proceed directly to the restoration planning phase without completing a formal damage assessment. As the injury assessment is being completed, the Trustees develop a plan for restoring the injured natural resources and services. The Trustees must identify a reasonable range of restoration alternatives, evaluate and select the preferred alternative(s), develop a draft restoration plan presenting the alternative(s) to the public, solicit public comment on the draft restoration plan, and incorporate comments into a final restoration plan (15 CFR § 990.55).

During the restoration implementation phase, the restoration plan is presented to the RP to implement or to fund the Trustees' costs for assessing damages and implementing the restoration plan. This provides the opportunity for settlement of damage claims without litigation. Should the RP decline to settle the Oil Pollution Act authorizes Trustees to bring a civil action against the RP for damages or to seek reimbursement from the Oil Spill Liability Trust Fund administered by the United States Coast Guard.

Trustees may settle claims for natural resource damages at any time during this process provided that "the settlement is adequate in the judgment of the Trustees to satisfy the goal of OPA and is fair, reasonable, and in the public interest" (15 CFR § 990.25). In other words, the Trustees must ensure that a settlement is adequate to restore, replace, rehabilitate, or acquire the equivalent of the injured natural resources and services. The Trustees, acting on behalf of the public, have to weigh the benefits of early settlement versus delayed recovery of natural resources that might result from long-term studies and protracted litigation.⁹ Sums recovered in settlement of such claims, other than reimbursement of Trustees' costs, may only be expended in accordance with a restoration plan that is made available for public review and comment.

1.6 Coordination with the Responsible Party

Under Section 1002 of OPA each party responsible for a facility from which oil is discharged is liable for natural resource damages resulting from the incident involving such discharge or threat of a discharge. The RP for this spill is the Olympic Pipe Line Company. Currently, the Company is owned by ARCO MidCon LLC (a wholly owned subsidiary of BP Pipelines North America Inc.) and Equilon. The Company is currently operated by BP Pipelines NA. At the time of the

⁹ Early settlement is discussed in several sections of 15 CFR Part 990. The preamble to the NRDA Final Rule, 61 Fed. Reg. 446 (Jan. 5, 1996) states that "Trustees may settle claims for natural resource damages under this rule at any time.... In determining the sufficiency of settlements to meet the public interest test under other statutes, reviewing courts have afforded broad deference to the judgment of federal agencies recommending such settlements. Courts have looked to whether the agencies have considered such factors as the benefits of early settlement as opposed to delayed recovery through litigation, litigation risk, certainty in the claim, and attitude of the parties toward the settlement, among other factors."

Incident, the owners were GATX, ARCO, and Equilon, with Equilon being the operator of the Company.

The Oil Pollution Act regulations require the Trustees to invite the RP(s) to participate in the damage assessment and restoration process (15 CFR § 990.14(c)). By working together, restoration of injured resources and services may be achieved more rapidly and cost-effectively. Although the RP may contribute to the process in many ways, final authority to make determinations regarding injury and restoration rests solely with the Trustees.

Shortly after the Incident, the Trustees and the Company recognized that a cooperative process would reduce duplication of studies, increase the cost-effectiveness of the assessment process, increase sharing of information, decrease the likelihood of litigation, and, most importantly, speed the restoration process. Another benefit of the cooperation was the ability to accomplish restoration goals in coordination with the emergency response activities. In an effort to establish a single focus among all Trustees and the Company, the parties agreed to develop a Joint Restoration Committee (JRC). The JRC worked to plan and implement emergency response and restoration activities during the summer and fall after the Incident (AR #1, 6, 23).

The Company, at the request of the JRC, also prepared a draft long-term restoration plan for the Incident (AR #15). The draft plan summarized the emergency restoration actions, the results of the initial studies, and proposed potential restoration alternatives. The Trustees carefully reviewed the Company's analysis of restoration alternatives. Many of the Company's proposed alternatives have been incorporated, in whole or part, into this proposed restoration plan.

The Trustees and the Company considered longer-term assessment studies to evaluate the injuries resulting from the Incident and the need for restoration. Both parties recognized the value of additional information in planning and scaling restoration actions, but also recognized the cost and time delays (in terms of restoration implementation) that would result from longer-term studies. It was uncertain whether the additional information gained from those studies would justify the increased costs or that the results would substantially change the type and scale of the potential restoration action. The Trustees and the Company agreed that the time and money would be better spent identifying and developing restoration projects to address the injuries to natural resources. The Trustees believe it is in the public's interest to focus on the planning and implementation of restoration projects in lieu of undertaking lengthy, and potentially costly, assessment studies. When faced with uncertainties, the Trustees and the Company attempted to resolve those in favor of more extensive, rather than less extensive, restoration projects. As a result, the Trustees and the Company are confident that the restoration projects proposed in this draft RP/EA, if approved and implemented, will compensate for the injuries to natural resources.

1.7 Public Participation

Public review of the draft RP/EA is an integral component of the restoration planning process. Through the public review process, the Trustees seek public comment on the approaches used to define and assess natural resource injuries and the projects being proposed to restore injured natural resources or replace services provided by those resources.

Opportunities for public review of restoration actions have been afforded at several points during the process. On June 22, 1999, an emergency restoration plan was presented at a public meeting and made available for public review (AR #1). The progress of the NRDA process has been reviewed at regular meetings of the State of Washington Resource Damage Assessment (RDA) committee, during which opportunities for public questions and comments were afforded. The first RDA meeting following the Incident was held in Bellingham on July 12, 1999, and was attended by the public, as well as representatives of the Trustees (AR #13).

Public review of the draft RP/EA is consistent with all federal and state laws and regulations that apply to the NRDA process, including Section 1006 of the Oil Pollution Act, its regulations (15 CFR Part 990), and the National Environmental Policy Act (42 U.S.C. §§ 4321 *et seq.*, as amended) and its implementing regulations (40 CFR Parts 1500-1508). Following a public notice, the draft RP/EA becomes available to the public for a 30-day comment period. As part of the public review process, the Trustees will conduct a public meeting during this period. The public meeting is scheduled for Wednesday, March 20, 2002, 7:00-9:30 p.m. at the Bellingham City Council Chambers, 210 Lottie Street, Bellingham, WA. Written comments received during the public comment period will be considered by the Trustees in preparing the final RP/EA.

An additional opportunity for public review will be provided in the event that the Trustees decide to make significant changes to this draft RP/EA based on the public comments. Comments on this draft RP/EA should be sent via email or U.S. mail to:

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Email: Doug.Helton@noaa.gov

1.8 Administrative Record

The Trustees have compiled an Administrative Record (AR) to support their restoration planning and to inform the public of the basis of their decisions. The AR is available for public review at the public repositories listed below. The AR index is provided in Section 9.2 of this draft RP/EA.

The AR facilitates public participation in the NRDA process and will be available for use in future administrative or judicial reviews of the Trustees' actions to the extent provided by federal or state law. Additional information and documents, including public comments received on the draft RP/EA, the final Restoration Plan and other related restoration planning documents, will become a part of the AR and will be submitted to the public repositories upon their completion.

Arrangements must be made in advance to review the AR. The documents comprising the AR can be viewed at the following locations:

City of Bellingham Department of Public Works, 2221 Pacific Street, Bellingham, WA 98226.
Contact: Clare Fogelsong Tel: (360) 676-6850 Fax: (360) 676-7799 Email: cfogelsong@cob.org

NOAA Damage Assessment Center, 7600 Sand Point Way NE, Seattle, WA 98115.
Contact: Doug Helton Tel: (206) 526-4563, Fax: (206) 526-6665 Email: Doug.Helton@noaa.gov

1.9 Summary of Findings

As described in Section 1.5, the Trustees must make several threshold determinations or findings during the course of the damage assessment process. For this Incident, the Trustees have determined¹⁰ that:

- An Oil Pollution Act incident occurred (AR #14);
- Natural resources were injured as a result of the Incident (AR #10);
- Response actions were not sufficient to compensate fully for injuries and losses of services (AR #2); and
- Feasible primary and compensatory restoration alternatives are available (AR #15).

1.10 Summary of the Natural Resource Damage Claim

The goal of the NRDA process, as stated in 15 CFR 990.10, is to “make the environment and public whole for injuries to natural resources and services resulting from an incident involving a discharge or substantial threat of a discharge of oil.” The natural resource damages claim for this Incident seeks restoration of the following natural resources and services:

1. **Vegetation**—Riparian and terrestrial vegetation;
2. **Fisheries**—Anadromous and resident fish, stream invertebrates, and their habitats;
3. **Water Quality**—Surface and ground waters;

¹⁰ Many of the documents in the AR support these determinations. The documents listed here are not meant to be exhaustive.

4. **Wildlife**—Birds, aquatic and terrestrial wildlife, and their habitats; and
5. **Human Uses**—Park and fishing closures.

Restoration actions for this Incident encompass emergency actions¹¹ taken during the summer and fall after the Incident as well as the proposed longer-term restoration actions that are the focus of this document. As described in more detail in Section 5.2 below, the proposed restoration actions seek to: 1) enhance recovery of vegetation; 2) enhance anadromous and resident fish populations through habitat improvements and protection of riparian buffers; 3) protect habitats; and 4) compensate for the lost and diminished human-use services resulting from closure and injury to the Park. The proposed long-term restoration actions include:

- **Land Acquisition**—the transfer of ownership from the Company to the City of Bellingham of two parcels of land along the Creek, totaling approximately 13.5 acres. The proposed acquisitions include a 9.5-acre parcel just upstream of Woburn Street and a 4-acre parcel below the confluence of Cemetery Creek and Whatcom Creek.
- **Recreational Improvements**—the construction of an access road, parking lot, and restrooms on the 9.5-acre site before transferring the property to the City to be used in perpetuity as park property.
- **Fisheries Habitat Enhancement**—the construction of two salmonid habitat restoration projects: 1) at Salmon Park near Racine Street; and 2) along the lower section of Cemetery Creek, near its confluence with Whatcom Creek.
- **Vegetation Planting**—the completion of the replanting and emergency revegetation efforts started during the emergency response phase of the Incident.
- **Operations, Maintenance and Monitoring**—the establishment of a dedicated fund for the continuation and further development of specific multi-year operations, maintenance, and monitoring programs. The City of Bellingham, pursuant to an agreement among the Trustees, will administer the funds for the proposed restoration projects.

¹¹ The emergency restoration actions are summarized in Appendix 9.3 to facilitate public understanding of the restoration that has already been accomplished, but are not formally part of this draft RP/EA. A copy of the Emergency Restoration Plan is included in the AR (AR #1).

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